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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,188	01/15/2002	Brian C. Barnes	2162.056900/TT4089	5070
23720	7590	01/28/2010		
WILLIAMS, MORGAN & AMERSON 10333 RICHMOND, SUITE 1100 HOUSTON, TX 77042			EXAMINER TRUONG, THANHNGA B	
			ART UNIT 2438	PAPER NUMBER
			MAIL DATE 01/28/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/047,188	Applicant(s) BARNES ET AL.	
	Examiner THANHNGA B. TRUONG	Art Unit 2438	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: 8-11 and 17-20.
 Claim(s) objected to: 4-7 and 15.
 Claim(s) rejected: 1-3, 12-14 and 16.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.

/Thanhnga B. Truong/
 Primary Examiner, Art Unit 2438

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 1/12/10, with respect to claims 1-3, 12-14 and 16 have been fully considered, but they are not persuasive, at least under 35 USC 112, second paragraph, as being indefinite.

Applicant has argued that:

The limitation "wherein the security level is directly related to said software object" is supported by the specification (page 17, 11, 6-16 and Figure 6. Applicant was trying to equate "wherein the security level is directly related to said software object" is the same as "The system 200 then establishes a security level based upon a pre-determined security level for the object 350 (block 630)." from the specification. Examiner respectfully traverses this argument. The security level based upon a pre-determined security level FOR the object is clearly not the same as the security level is directly related to said software object. Furthermore, the language cited in the claim is not clearly specified/cited in the instant specification, which could construe new matter. For the above reasons, it is believed that the rejection, under 35 USC 112, 2nd paragraph, should be sustained.

Applicant's arguments filed 1/12/10, with respect to claims 1-3, 12-14, and 16 have been fully considered, but they are not persuasive, at least under 35 USC 103.

Applicant has argued that:

Covey does not and cannot teach establishing a security level for said software object, where in the security level is directly related to said software object, as called for claim 1.

Examiner respectfully disagrees with the applicant and still maintain that:

Since the instant specification does not and cannot clearly cited "wherein the security level is DIRECTLY RELATED to said software object", examiner has done her best interpretation to understand the claimed limitation, which could construe new matter, to map with the teaching of Covey. Thus, Covey teaches the newly amended limitation "wherein the security level is directly related to said software object" (see Figure 1 and column 9, lines 29-48 of Covey, wherein the label RAM 60 is mapping directly into the registers' labels which may have different significance to different software processes. The security kernel will then select the particular bit patterns that it will use to represent different sensitivity and/or integrity levels, and will program the result label RAM and label registers accordingly).

Although Covey teaches memory access with security level, but merely discloses establishing a security level for said software object (column 5, lines 9-19 and column 6, lines 4-10 of Covey), Covey is silent on the capability of showing the multi-table input/output space. On the other hand, Motoyama discloses the process of accessing software object in the abstract and as well as in column 4, lines 23-29 of Motoyama. Furthermore, Agarwal discloses the multi-table input/output space in column 46, lines 13-36 of Agarwal.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to:

(1) have modified the invention of Covey with the teaching of Motogama and Agarwal for improving computer security (column 1, line 6 of Covey).

The ordinary skilled person would have been motivated to:

(1) have modified the invention of Covey with the teaching of Motogama and Agarwal to maintain the proper labeling of data at multiple sensitivity levels and proper control of access based upon these labels, is said to be "multi-level secure" or "MLS" (column 2, lines 60-63 of Covey).

Thus, the combination of teaching between Covey, Motoyama and Agarwal teaches the claimed subject matter.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, according to the above explanation, the combination of teaching between Covey, Motoyama and Agarwal is efficient and proper.

Applicant also further argues that without using improper hindsight reasoning, those skilled in the art simple would not combine them in the manner claimed.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The fact that Examiner may not have specifically responded to any particular arguments made by Applicant and Applicant's Representative, should not be construed as indicating Examiner's agreement therewith.

For the above reasons, it is believed that the rejections should be sustained.

Allowable Subject Matter

Claims 8-11 and 17-20 are allowed.

Claims 4 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Claims 5-7 are depended to claim 4, thus they are objected with the same rationale applied against claim 4 above.

TBT